

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

JAMES R. DALTON, et. al,	x	
	x	
Plaintiffs,	x	Hon. Stanley R. Chesler, U.S.D.J.
	x	
v.	x	Civ. No. 05-727 (SRC)
	x	
	x	<b>ORDER</b>
	x	
GENERAL MOTORS CORP., et. al,	x	
	x	
Defendants.	x	

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**CHESLER, District Judge**

This matter comes before the Court upon motions by the defendants, General Motors Corporation, and defendants Madaras, Romero, Doss, Chrzanowski, Powell, Wesley, and Gerosa (hereinafter “Defendants”) (1) to dismiss counts II (Conspiracy to Violate Civil Rights Under 42 U.S.C. s 1985), V (Breach of Fiduciary Duty Under Delaware Law), VI (Breach of Delaware and Federal Securities Laws), VII (Conspiracy to Violate Delaware and Federal Securities Laws), VIII (Violation of Delaware Deceptive Trade and Business Practices Act), IX (Declaratory Judgment for Violations of the Business Opportunity Acts of Delaware, Common Law, and Federal Law), and X (Declaratory Judgment of Unenforceability of Contract for Unconscienability) of plaintiffs’ complaint [Docket Entry No. 3]; (2) to strike plaintiffs’ class allegations [Docket Entry No. 4]; and (3) for partial summary judgment against plaintiff James R. Dalton [Docket Entry No. 5]; and by letter application of plaintiffs dated July 22, 2005 to withdraw plaintiff Theldon R. Branch, III as a proposed class representative [Docket Entry No. 34]; and the Court having considered the parties’ submissions and having heard oral argument;

and for the reasons set forth on the record on September 20, 2005; and for good cause shown,

**IT IS** on this 22nd day of August 2005:

**ORDERED** that Defendants' motion to dismiss counts II, V, VI, VII, VIII, IX, and X of plaintiff's complaint [Docket Entry No. 3] is granted in part and denied in part and denied in part, to wit:

- a. Counts II and V are dismissed with prejudice;
- b. Counts VI and VII are dismissed with the consent of plaintiffs without prejudice;<sup>1</sup>
- c. Counts VIII and IX are dismissed with the consent of plaintiffs with prejudice;
- and
- d. the motion to dismiss Count X is denied;

**IT IS FURTHER ORDERED** that Defendants' motion to strike plaintiffs' class allegations [Docket Entry No. 4] is denied;

**IT IS FURTHER ORDERED** that plaintiff Theldon R. Branch, III's application to withdraw his claims [Docket Entry No. 34] is granted pursuant to Fed. R. Civ. P. 41 on the condition that Mr. Branch remains subject to discovery in this case as if he were a party; and

The Court reserves ruling on Defendants' motion for partial summary judgment against plaintiff James R. Dalton [Docket Entry No. 5].

s/Stanley R. Chesler  
United States District Judge

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<sup>1</sup>At oral argument, plaintiffs consented to dismissal of Counts VI and VII of the Complaint and voiced their intent to recast these claims in an amended complaint. By dismissing these claims without prejudice, the Court does not grant leave to amend. Rather, such leave, if any, shall be the subject of a motion by the plaintiffs under Rule 15.